

PROGRAMMATIC AGREEMENT OUTLINE

THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 7, THE IOWA STATE HISTORIC PRESERVATION OFFICE, THE ADVISORY COUNCIL ON HISTORIC PRESERVATION, AND THE IOWA DEPARTMENT OF NATURAL RESOURCES, REGARDING SECTION 106 CONSULTATION - 36 CFR PART 800

The purpose of the proposed Programmatic Agreement is twofold. First, it clarifies the boundaries of the Iowa Department of Natural Resources' (DNR) authority to implement the Section 106 process for both SRF funding from the Clean Water Act and the Safe Drinking Water Act through the Standard Project Review language. Second, the Programmatic Agreement excludes certain activities from a full SHPO review in the Section 106 process, when the facts show those projects will not have a risk of negatively affecting historical resources. Both these features of this Programmatic Agreement will streamline the State Revolving Fund (SRF) funding process to allow wastewater and drinking water treatment projects to move quickly towards completion.

- **Background**

- Statement of jurisdiction
 - Clean Water State Revolving Fund (1990 Nationwide Programmatic Agreement)
 - Drinking Water State Revolving Fund (2022 Iowa Authorization Letter)
- Historical discussion
- Tribe communication

- **EPA responsibilities**

- Engage in federal government-to-government consultation as requested, except consultation delegated to IDNR (including initiation of consultation) and agreed to by Tribes
- Lead dispute resolution

- **DNR responsibilities**

- Set requirements on the qualifications on any Historic Preservation Specialist (HPS) retained by the DNR to ensure compliance with Secretary of Interior-qualified (SOI) standards
- Identify confidentiality requirements and document retention requirements
- Appropriately curate artifacts
- Consult with the Iowa SHPO in the event a National Historic Landmark will be affected
- Conduct consultation with Tribes consistent with the Programmatic Agreement
- Set training requirements
- Consult with the Iowa SHPO for all projects not excluded by the Programmatic Agreement
- Provide annual reports to SHPO on excluded projects
- Detail the duties, qualifications and duties relative to the procedures outlined in the Programmatic Agreement
- Conduct standard Section 106 review for a project as if the Programmatic Agreement were not in place in the event an HPS cannot perform duties required for that project, including if an HPS is not retained by the DNR
- Ensure environmental review specialists retained by the DNR comply with the procedures outlined in the PA

- **SHPO responsibilities**

- Conduct technical assistance by SHPO
- Resume standard section 106 procedures for a project as if the Programmatic Agreement were not in place in the event an HPS cannot perform duties required for that project, such as if an HPS is not retained by the DNR

- **ACHP responsibilities**

- Any signatory may, at its own discretion, request that the EPA Region 7 office and/or the ACHP participate in the review of individual SRF projects or assist in resolving disputes that may arise among the Signatories during the implementation of this Agreement.

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- **Undertakings Excluded from SHPO Review**
 - Allows for exclusion of undertakings listed in Appendix B
 - Allows for DNR to not exclude a project under the Programmatic Agreement and instead proceed with standard review of the project
 - Prohibits the segmentation of projects into excluded and non-excluded portions.
 - Requires documentation of exclusion
- **Standard Project Review and Authority**
 - For project not excluded under the PA, requires standard procedure under applicable law
 - For CWSRF projects, references the 1990 Nationwide Programmatic Agreement as authority and procedure
 - For DWSRF projects, provides express authority for the DNR to carry out actions otherwise delegated to the EPA, similar to how the 1990 Nationwide Programmatic Agreement operates on a national level
- **Unanticipated discoveries**
 - Details the treatment of unanticipated human remains discovered during a project
 - Details the process to handle other unanticipated discoveries
- **Dispute resolution**
 - Details the procedures available to the parties of the Programmatic Agreement to formally resolve disputes related to the implementation of the programmatic agreement
- **Amendments**
 - Details the procedures to amend the Programmatic Agreement
- **Termination and Duration**
 - Details the situations when the Programmatic Agreement will terminate
 - Includes termination terms
- **Monitoring and Reporting**
 - Reiterates the reporting requirements for projects excluded from standard Section 106 review.
- **Execution**
 - Includes legal execution clause of the Programmatic Agreement
- **Appendix A**
 - Includes tribal notification details
- **Appendix B**
 - Includes an agreed upon list of project types that do not have the potential to cause adverse effects to historic properties and that are excluded from further Section 106 review by the SHPO.
 - Tier 1 Projects: Projects that have no possibility of affecting non-facility properties of any kind
 - Tier 2 projects: Projects that will not affect historic properties, or that will not have an adverse effect on historic properties